IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE EIGHTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1236 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/07/2004 in WP NO : 8712 OF 1991 on the file of the High Court.)

Between:

Grandhi Kamaraju S/o Padmaraju
R/o Town Hall Road, Visakhapatnam.

..... APPELLANT

AND

1. The Government of Andhra Pradesh, rep. by District Collector, Collector's Office, Visakhapatnam
2. The Joint Collector, Collector's Office, Visakhapatnam
3. The Municipal Corporation of Visakhapatanam rep. by its Commissioner, Visakhapatnam.

.....RESPONDENTS

For the Appellant: Mr. E.Manohar, Sr.Advocate,

for Mr. P.Kamalakar.

For the Respondent Nos 1&2 : GP FOR REVENUE

For the Respondent No.3 : Mr.T.S.Venkataramana

Standing Counsel.

The Court made the following :

ORAL JUDGMENT:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

As a matter of fact, Writ Petition filed by the petitioner-appellant was disposed of, which we might term as 'was allowed'. However, the petitioner is aggrieved by the consequential orders issued by the learned Single Judge, while setting aside of the notice/notification dated: 17.1.1981 purported to have be issued by the second respondent under Section 3(2) of the Andhra Pradesh Slum Improvement (Acquisition of Land) Act, 1956 (for short "the Act").

Learned Single Judge while setting aside the notice directed that fresh enquiry be conducted by giving notice not only to the petitioner, but also to one Jagga Rao and the Receiver appointed in the Civil Court, and also by issuing public notice so as to invite any other person interested to participate in the proceedings and pass an order after conducting the enquiry.

As a matter of fact, under sub-Section (2) of Section 3, if Government is satisfied that it is necessary to acquire any land in a slum area for the purpose of clearing or improving the area, it may acquire the land by publishing in the Andhra Pradesh Gazette a notice to the effect that it has decided to acquire the land in pursuance of this Section. Proviso to sub-section (2) of Section 3 provides that before publishing such a notice, Government shall call upon the owner of, or any other person, who, in the opinion of the Government, is interested in such land to show cause why it should not be acquired and after considering the cause, if any, shown by any person interested in the land, Government is entitled to pass orders as are deemed fit. *"Person interested"* has been defined in clause (b) of Section 2 of the Act.

As a matter of fact, learned Single Judge while finding that petitioner who was the owner of the site had not been issued any notice, proceeded to set aside the notification by limiting or curtailing the discretion vested in the Government while issuing show-cause notice prior to public notice under sub-section (2) of Section 3 of the Act. In case, learned Single Judge was satisfied that notice ought to have been

issued to the petitioner, whose father had purchased the land from Sri A.V.Bhanoji Rao S/o Sri Raja Ankitham Venkata Jagga Rao, by registered sale-deed, the course which ought to have been adopted was to set aside the notification, thereby, reserving liberty to the Government to issue show-cause notice as per proviso to sub-section (2) of Section 3 of the Act. It is not necessary to the learned Single Judge to have directed that notice should be issued to one Jagga Rao and also the Receiver, as the Receiver is no more in possession and said Jagga Rao expired even prior to the execution of the sale-deed.

Therefore, we allow the Writ Appeal and modify the impugned order passed by the learned Single Judge. Writ Petition of the petitioner stands allowed, and, the notification dated: 17.01.1981 is set aside with liberty reserved to the respondents to issue notice in terms of proviso to sub-section (2) of Section (3) of the Andhra Pradesh Slum Improvement (Acquisition of Land) Act, 1956, and, then take appropriate decision in accordance with law.

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DEVINDER GUPTA, C.J.

18.8.2004.

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C.V.RAMULU, J.

VR.

To

1. The District Collector, Government of Andhra Pradesh, Collector's Office, Visakhapatnam.
2. The Joint Collector, Collector's Office, Visakhapatnam.
3. The Commissioner, Municipal Corporation of Visakhapatanam, Visakhapatnam.

4. The Govt. Pleader for Revenue, High Court Bldgs., Hyderabad (OUT).

5. Two CD copies.